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Attorneys for Plaintiff Blendtec Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

BLENDTEC, INC., a Utah corporation,

Plaintiff,

vs.

BLENDJET INC., a Delaware corporation,
MAVORCO HOLDINGS, LLC, a
Delaware limited liability company,
MAVORCO IP, LLC, a Delaware limited
liability company, and **MAVORCO
OPERATIONS, LLC**, a Delaware limited
liability company,

Defendants.

**SECOND DECLARATION OF DAVID
FRANKLIN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Civil Case No. 2:25-cv-00096-RJS-DBP
Judge Robert J. Shelby
Judge Dustin B. Pead

I, DAVID FRANKLIN, hereby declare as follows:

1. I am a professor of intellectual property at Arizona State University and a director for the Thomas McCarthy Institute for IP and Technology Law. I have been retained by Blendtec Inc. ("Blendtec") in *Blendtec Inc. v. Blendjet Inc.*, Case No. 2:21-cv-00668-TC-DBP, pending in

the United States District Court for the District of Utah (the “2021 Action”) to provide expert opinions regarding a likelihood of confusion between the parties’ respective “BLENDTEC” and “BLENDJET” and Swirl Design Marks in the 2021 Action. I am fully familiar with the facts set forth in this declaration from personal knowledge or from documents that I have reviewed. If called as a witness, I could and would testify competently under oath to the facts contained herein.

2. I conducted a survey regarding the likelihood of confusion (the “Franklyn Survey”) and submitted my opinions in an expert report and declaration dated March 24, 2025. I understand my expert report was filed in connection with Blendtec’s Motion for Preliminary Injunction. I have further been requested to provide a supplemental report to address the criticisms of my survey presented in Defendant MaverCo’s Brief in Opposition to Plaintiff’s Motion for Preliminary Injunction. I summarized my opinions to date in a supplemental expert report (attached hereto as **Exhibit 1**). I hereby adopt the opinions and statements in the attached supplemental report as my testimony herein under penalty of perjury.

DATED this 9th day of May, 2025



David J. Franklyn

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of May, 2025, a true and correct copy of the foregoing document was served on counsel of record via the Court's CM/ECF System which sent notice to the following counsel of record:

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/s/ Tamara L. Kapaloski